

SONYA D. WINNER (SBN 200348)
Email: swinner@cov.com
CORTLIN H. LANNIN (SBN 266488)
Email: clannin@cov.com
ISAAC D. CHAPUT (SBN 326923)
Email: ichaput@cov.com
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, California 94105-2533
Telephone: + 1 (415) 591-6000
Facsimile: + 1 (415) 591-6091

ALLEN RUBY (SBN 47109)
allen@allenruby.com
ALLEN RUBY, ATTORNEY AT LAW
15559 Union Ave. #138
Los Gatos, CA 95032
Tel: (408) 477-9690

*Attorneys for Defendant/Counterclaimant
Intuitive Surgical Inc.*

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

SURGICAL INSTRUMENT SERVICE
COMPANY, INC.,

Plaintiff/
Counterclaim-Defendant

vs.

INTUITIVE SURGICAL, INC.,

Defendant/
Counterclaim-Plaintiff.

Case No.: 3:21-cv-03496-VC

**TABLE OF EXHIBITS
TO THE OPPOSITION OF DEFENDANT
INTUITIVE SURGICAL, INC. TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND CROSS-
MOTION FOR SUMMARY JUDGMENT**

Hearing Date: June 8, 2023

Hearing Time: 1:00 p.m.

Hearing Place: Courtroom 5

Judge: The Honorable Vince Chhabria

| Declaration | Exhibit | Brief Description |
|--------------------|----------------|--|
| Rosa Dec. | | Declaration of David Rosa |
| Rosa Dec. | Ex. 1 | Business Alignment Meeting Presentation (Intuitive-00001237 – Intuitive-00001311) |
| Rosa Dec. | Ex. 2 | Intuitive Letter to St. Vincent’s Hospital (Intuitive-00980925 – Intuitive-00980927) |
| Smith Dec. | | Declaration of Dr. Loren K. Smith |
| | Ex. 1 | Expert Antitrust Merits Rebuttal Report of Dr. Loren K. Smith (submitted in this case) |
| Cahoy Dec. | | Declaration of Kathryn E. Cahoy |
| | | Exhibit 1 Intentionally Omitted |
| Cahoy Dec. | Ex. 2 | Excerpts of the Deposition of Ryan Shaw (Oct. 19, 2022) (taken in this case) |
| | | Exhibit 3 Intentionally Omitted |
| Cahoy Dec. | Ex. 4 | Excerpts of the Deposition of Grant Duque (Nov. 8, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 5 | Excerpts of the Deposition of Margaret Marie Nixon (Oct. 7, 2022) (taken in this case) |
| | | Exhibits 6-7 Intentionally Omitted |
| Cahoy Dec. | Ex. 8 | Excerpts of Deposition of Sharathchandra “Shark” Somayaji (Nov. 4, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 9 | Excerpts of Deposition of Grant Duque, 30(b)(6) designee for Intuitive (Nov. 8, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 10 | Expert Report of Christy Foreman (submitted in this case) |
| Cahoy Dec. | Ex. 11 | Contract between Intuitive and Larkin Community Hospital (LARKIN-00025487 – LARKIN00025500) |

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| Cahoy Dec. | Ex. 12 | Contract between Intuitive and Franciscan Alliance, Inc. (FRANCISCAN-00056312 – FRANCISCAN-00056338) |
| Cahoy Dec. | Ex. 13 | Contract between Intuitive and Valley Medical Center (VMC-00020649 – VMC-00020666) |
| Cahoy Dec. | Ex. 14 | “REBOTIX™ INTERCEPTOR CPLD Software Description” (REBOTIX100995 – REBOTIX101019) |
| Cahoy Dec. | Ex. 15 | Rebotix “EndoWrist Service Procedure” (REBOTIX162404 – REBOTIX162424) |
| Cahoy Dec. | Ex. 16 | Excerpts of the Deposition of Dr. T. Kim Parnell (Mar. 10, 2023) (taken in this case) |
| Cahoy Dec. | Ex. 17 | Excerpts of the Deposition of Nickola “Nicky” Goodson, 30(b)(6) designee for Intuitive (Nov. 16, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 18 | Excerpts of the Deposition of Colin Morales (Nov. 1, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 19 | Excerpts of Deposition of Chris Gibson (June 22, 2021) (taken in the <i>Rebotix</i> case) |
| Cahoy Dec. | Ex. 20 | Excerpts of Deposition of Glenn Papit, 30(b)(6) designee for Rebotix (June 2, 2021) (taken in the <i>Rebotix</i> case) |
| Cahoy Dec. | Ex. 21 | Rebotix 510(k) Application for “Re-manufactured EndoWrists” (REBOTIX170421 – REBOTIX170464) |
| Cahoy Dec. | Ex. 22 | Emails re “Rebotix AI Letter Conference Call Follow-Up” (REBOTIX077729 – REBOTIX077734) |
| Cahoy Dec. | Ex. 23 | Email from FDA to Ryan Burke (REBOTIX171058) |
| Cahoy Dec. | Ex. 24 | Letter from Ryan Burke to FDA (REBOTIX171076) |
| Cahoy Dec. | Ex. 25 | Letter from Intuitive to Dr. William Maisel, Director, Office of Product Evaluation and Quality, FDA Center for Devices and Radiological Health (Intuitive-00552745 – Intuitive-00552759) |

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| Cahoy Dec. | Ex. 26 | Excerpts of Deposition of Stan Hamilton (June 4, 2021) (taken in the <i>Rebotix</i> case) |
| Cahoy Dec. | Ex. 27 | Rebotix & Restore FAQ Responses (REBOTIX044230 – REBOTIX044236) |
| Cahoy Dec. | Ex. 28 | Rebotix – Restore Distributor Agreement (REBOTIX050713 – REBOTIX050723) |
| Cahoy Dec. | Ex. 29 | Excerpts of Deposition of Keith Robert Johnson, 30(b)(6) designee for Surgical Instrument Service Company (Oct. 27, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 30 | Excerpts of Deposition of Greg Posdal (Nov. 1, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 31 | Emails between BPI Medical, Rebotix, and FDA re EndoWrists (BPI000331 – BPI000337) |
| Cahoy Dec. | Ex. 32 | FDA Deficiency Letter re Rebotix “Remanufactured EndoWrists” (REBOTIX171030 – REBOTIX171057) |
| | | Exhibit 33 Intentionally Omitted |
| Cahoy Dec. | Ex. 34 | Emails re “Request for More Information on Rebotix Repair Repairing/Service Activities” (REBOTIX146948 – REBOTIX146955) |
| Cahoy Dec. | Ex. 35 | FDA Letter No. CPT2000126 to Rebotix (REBOTIX175417 – REBOTIX175418) |
| Cahoy Dec. | Ex. 36 | Letter from Stan Hamilton to FDA re CPT2000126 (REBOTIX175468 – REBOTIX175470) |
| Cahoy Dec. | Ex. 37 | Emails re “Rebotix Repair, LLC re Document Number CPT200126” (REBOTIX175839 – REBOTIX175843) |
| Cahoy Dec. | Ex. 38 | Emails re “Restore Robotics -- Request for More Information (Restore-00001248 – Restore-00001256) |
| Cahoy Dec. | Ex. 39 | Excerpts of Deposition of Clifton Earl Parker, 30(b)(6) designee for Restore Robotics (May 4, 2021) (taken in the <i>Restore</i> case) |
| Cahoy Dec. | Ex. 40 | Iconocare 510(k) Clearance (SIS357813 – SIS357818) |

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|--------------------|----------------|---|
| Cahoy Dec. | Ex. 41 | FDA Deficiency Letter re Iconocare 8mm Monopolar Curved Scissors (AHP000527 – AHP000537) |
| Cahoy Dec. | Ex. 42 | Emails re Iconocare Deficiency Notice (Restore-00086093 – Restore-00086120) |
| | | Exhibits 43-46 Intentionally Omitted |
| Cahoy Dec. | Ex. 47 | Excerpts of Deposition of Judith Schimmel (Sept. 22, 2022) (taken in this case) |
| | | Exhibits 48-50 Intentionally Omitted |
| Cahoy Dec. | Ex. 51 | Excerpts of Deposition of Dr. Michael Burke (Sept. 27, 2022) (taken in this case) |
| | | Exhibits 52-63 Intentionally Omitted |
| Cahoy Dec. | Ex. 64 | Emails re “Rebotix Repair, LLC re Document Number CPT200126” (REBOTIX175710 – REBOTIX175730) |
| Cahoy Dec. | Ex. 65 | FDA White Paper: Evaluating Whether Activities are Servicing or Remanufacturing |
| Cahoy Dec. | Ex. 66 | Excerpts of the Deposition of Disha Peswani (Oct. 6, 2022) (taken in this case) |
| | | Exhibits 67-70 Intentionally Omitted |
| Cahoy Dec. | Ex. 71 | <i>Rebotix</i> Order on Daubert Motions |
| Cahoy Dec. | Ex. 72 | <i>Restore</i> Order on Daubert Motions |
| Cahoy Dec. | Ex. 73 | Excerpts of the Deposition of Nickola “Nicky” Goodson, 30(b)(6) designee for Intuitive (Oct. 27, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 74 | Excerpts of the Deposition of Marshall Mohr, 30(b)(6) designee for Intuitive (Nov. 7, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 75 | Expert Report of Dr. Robert D. Howe (submitted in this case) |

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|--------------------|----------------|--|
| Cahoy Dec. | Ex. 76 | Expert Report of Dr. Maxwell V. Meng (submitted in this case) |
| Cahoy Dec. | Ex. 77 | Excerpts of Deposition of Greg Posdal (May 10, 2021) (taken in the <i>Restore</i> case) |
| Cahoy Dec. | Ex. 78 | Contract between Rebotix and Surgical Instrument Service Company, Inc. (SIS000046 and SIS000035 – SIS000045) |
| Cahoy Dec. | Ex. 79 | Excerpts of Deposition of Greg Posdal, 30(b)(6) designee for Surgical Instrument Service Company (Nov. 1, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 80 | Emails between representatives of Surgical Instrument Service Company and Banner Health (SIS095115 – SIS095139) |
| Cahoy Dec. | Ex. 81 | Expert Report of Richard F. Bero (submitted in this case) |
| Cahoy Dec. | Ex. 82 | Letter from Intuitive to Marin General Hospital (Intuitive-00049154 – Intuitive-00049156) |
| Cahoy Dec. | Ex. 83 | Letter from Intuitive to Banner Health (Intuitive-00986535 – Intuitive-00986537) |
| Cahoy Dec. | Ex. 84 | Excerpts of Deposition of Keith Robert Johnson (Oct. 27, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 85 | Expert Report of Dr. Paul D. Martin (submitted in this case) |
| Cahoy Dec. | Ex. 86 | Excerpts of the Deposition of Kurt Humphrey (Mar. 15, 2023) (taken in this case) |
| Cahoy Dec. | Ex. 87 | FDA Guidance “Off-The-Shelf Software Use in Medical Devices: Guidance for Industry and Food and Drug Administration Staff” |
| Cahoy Dec. | Ex. 88 | FDA “Guidance for Industry: Cybersecurity for Networked Medical Devices Containing Off-the-Shelf (OTS) Software” |
| Cahoy Dec. | Ex. 89 | Expert Rebuttal Report of Kurt Humphrey (submitted in this case) |
| Cahoy Dec. | Ex. 90 | Excerpts of K131861 AI Response (Intuitive-00506505 – Intuitive-00506641) |

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|--------------------|----------------|--|
| Cahoy Dec. | Ex. 91 | FDA Deficiency Notice to Intuitive re Software (Intuitive-00499486 and Intuitive-00499499 – Intuitive-0049950) |
| | | Exhibits 92-93 Intentionally Omitted |
| Cahoy Dec. | Ex. 94 | Excerpts of Deposition of Stan Hamilton (Nov. 4, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 95 | Excerpts of Deposition of Clifton Earl Parker (Oct. 25, 2022) (taken in this case) |
| Cahoy Dec. | Ex. 96 | Excerpts of the Deposition of Kevin May (Nov. 3, 2022) (taken in this case) |